

1 A. Jeff Ifrah  
2 (*Admitted Pro Hac Vice*)  
3 David B. Deitch  
4 (*Admitted Pro Hac Vice*)  
5 Rachel Hirsch  
6 (*Admitted Pro Hac Vice*)  
7 IFRAH PLLC  
8 1717 Pennsylvania Avenue  
9 Suite 650  
10 Washington, D.C. 20006  
11 Telephone: 202-524-4140  
12 Facsimile: 202-521-4141  
13 Email: [jeff@ifrahlaw.com](mailto:jeff@ifrahlaw.com)  
[ddeitch@ifrahlaw.com](mailto:ddeitch@ifrahlaw.com)  
[rhirsch@ifrahlaw.com](mailto:rhirsch@ifrahlaw.com)

14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Craig S. Denney  
Nevada Bar No. 6953  
Carrie L Parker  
Nevada Bar No. 10952  
SNELL & WILMER L.L.P.  
50 West Liberty Street  
Suite 510  
Reno, Nevada 89501  
Telephone: 775-785-5440  
Facsimile: 775-785-5441  
Email: [cdenney@swlaw.com](mailto:cdenney@swlaw.com)  
[cparker@swlaw.com](mailto:cparker@swlaw.com)

*Attorneys for Defendants*

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

U.S. COMMODITY FUTURES TRADING  
COMMISSION,

Plaintiff,

vs.

BANC DE BINARY LTD., *et al.*

Defendants.

Case No. 2:13-CV-00992-MMD-VCF

**UNOPPOSED MOTION FOR  
MODIFICATION OF  
SCHEDULING ORDER  
(Sixth Request)**

Defendants Banc de Binary Limited (“BDB Cyprus.”), E.T. Binary Options Ltd. (“ETBO”), B.O. Systems Ltd. (Seychelles) (“BO Systems”), and BDB Services Ltd. (Seychelles)

(“BDB Services”) (collectively, “BDB” or “Defendants”), by counsel, submit this unopposed motion to request a two-week extension of the discovery deadline and a corresponding extension of the deadlines for dispositive motions and joint pretrial order. Defendants request that the Court enter an order extending the deadline for discovery from May 6, 2015, to May 20, 2015; the deadline for dispositive motions from June 6, 2015, to June 20, 2015; and the deadline for the parties’ Joint Pretrial Order from July 6, 2015, to July 20, 2015.

The undersigned certifies that, on April 7, 2015, counsel for the parties consulted by telephone regarding the requested relief. Counsel for the Commodity Futures Trading Commission (“CFTC” or the “Commission”) stated that the Commission does not oppose Defendants’ request for relief.

In support of this motion, Defendants state as follows:

1. On June 5, 2013, CFTC filed its complaint against BDB Cyprus. [Dkt. 1].
2. On August 26, 2013, the Court entered a Joint Discovery Plan and Scheduling Order [Dkt. 40].
3. On November 25, 2013, the Court stayed discovery pending adjudication of BDB Cyprus’ motion to dismiss. [Dkt. 43].
4. On February 20, 2014, the Court denied BDB Cyprus’ motion to dismiss and thereby terminated the stay. [Dkt. 44].
5. On March 7, 2014, the Court entered an Amended Scheduling Order. [Dkt. 46].
6. On May 6, 2014, CFTC amended the complaint to add ETBO, BO Systems, BDB Services, and Oren Laurent as defendants.
7. On May 7, 2014, the parties filed a second request for modification of the Scheduling Order [Dkt. 54], which the Court granted the following day [Dkt. 55]. Under the modified order, discovery was to be completed by January 9, 2015, dispositive motions were to be filed by February 11, 2015, and the parties were to submit a Joint Pretrial Order by March 11, 2015. [Dkt. 55].

Ifrah PLLC  
1717 Pennsylvania Ave., NW Suite 650  
Washington, DC 20006  
(202) 524-4140

1           8. On October 16, 2014, the parties filed a third request for modification of the  
 2 Scheduling Order [Dkt. 69], which the Court granted that day [Dkt. 70].

3           9. On December 5, 2014, CFTC filed a fourth request for modification of the  
 4 scheduling order [Dkt. 81], which the Court granted on January 15, 2015 [Dkt. 101].

5           10. On February 26, 2015, CFTC filed a fifth request for modification of the  
 6 scheduling order [Dkt. 106], which the Court granted on March 24, 2015 [Dkt. 114]. The Order  
 7 extended the discovery deadline to May 6, 2015, the deadline for dispositive motions to June 6,  
 8 2015, and the deadline for the parties' Joint Pretrial Order to July 6, 2015.

9           11. On March 27, 2015—before Defendants were given an opportunity to negotiate  
 10 deposition dates—CFTC issued amended notices of deposition, which established the following  
 11 schedule for depositions:

- 12           a. Oren Laurent                  April 13, 2015
- 13           b. BDB Cyprus                  April 28, 2015
- 14           c. BDB Services                 April 29, 2015
- 15           d. BO Systems                 April 30, 2015
- 16           e. Yoram Menachem            May 1, 2015
- 17           f. ETBO                         May 4, 2015

18           12. After the parties had tentatively agreed to the above-referenced deposition dates,  
 19 Defendants' counsel learned that Mr. Laurent's wife is expecting. The baby's due date is May 1,  
 20 2015. As such, Mr. Laurent has requested that his deposition be postponed until after May 1st to  
 21 ensure he is home when the baby arrives.

22           13. Marios Kosma is the corporate designee for the 30(b)(6) depositions scheduled for  
 23 April 28–30 and May 4, 2015. No other person is available to serve as the corporate defendants'  
 24 designee.<sup>1</sup> After the parties had tentatively agreed to the deposition schedule, Defendants' counsel  
 25 learned that Mr. Kosma's wife is expecting to deliver the couple's baby on April 24, 2015.

---

26  
 27  
 28           <sup>1</sup> Mr. Kosma also served as the Defendants' corporate designee for the 30(b)(6) depositions in the SEC's parallel action.

1 Defendants' counsel requested that CFTC accommodate Mr. Kosma's potential conflict by  
 2 postponing the 30(b)(6) depositions until the first week of May 2015.  
 3

4       14. On April 7, 2015, Defendants' counsel consulted with Plaintiff's counsel regarding  
 5 the proposed modifications to the Scheduling Order. Plaintiff's counsel indicated that the  
 6 Commission does not oppose the requested relief.

#### **POINTS AND AUTHORITIES**

7       15. Rule 16(b)(4) of the Federal Rules of Civil Procedure provides that a scheduling  
 8 order "may be modified only for good cause and with the judge's consent." In considering  
 9 whether a party has shown good cause for modifying a scheduling order, a court considers the  
 10 moving party's reasons for seeking modification, the diligence of the party seeking the  
 11 amendment, and the existence or degree of prejudice to the other party. *See Johnson v. Mammoth*  
*Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992).

12       16. Here, Defendants seek a two-week extension of the discovery deadline to  
 13 accommodate the imminent birth of Mr. Laurent's and Mr. Kosma's children.

14       17. The requested extension will not prejudice the Commission, as evidenced by  
 15 CFTC's representation that it does not oppose the requested relief.

16       18. Defendants' request also satisfies the timing requirements under Local Rule 26-4,  
 17 which requires all motions for an extension of the discovery deadline to be filed at least twenty-  
 18 one days in advance of the expiration of the subject deadline.

19       19. Under the Court's March 24, 2015 Order, the current discovery deadline is May 6,  
 20 2015. Thus, Defendants' motion must be filed no later than Wednesday, April 15, 2015.

#### **CONCLUSION**

21       WHEREFORE, for good cause shown, Defendants respectfully request that the Court  
 22 grant their Unopposed Motion for Modification of the Scheduling Order and extend the discovery  
 23 deadline from May 6, 2015 to May 20, 2015; the deadline for dispositive motions from June 6,  
 24 2015, to June 20, 2015; and the deadline for the parties' Joint Pretrial Order from July 6, 2015, to  
 25 July 20, 2015.  
 26  
 27  
 28

1           The undersigned counsel for Defendants certifies that the foregoing facts and  
2 representations are true and correct.  
3

4 Dated: April 7, 2015

Respectfully submitted,

5 IFRAH PLLC

6 By: /s/ A. Jeff Ifrah  
A. Jeff Ifrah  
(Admitted Pro Hac Vice)  
David B. Deitch  
(Admitted Pro Hac Vice)  
Rachel Hirsch  
(Admitted Pro Hac Vice)  
IFRAH PLLC  
1717 Pennsylvania Avenue  
Suite 650  
Washington, D.C. 20006  
Telephone: 202-524-4140  
Facsimile: 202-521-4141  
[jeff@ifrahlaw.com](mailto:jeff@ifrahlaw.com)  
[ddeitch@ifrahlaw.com](mailto:ddeitch@ifrahlaw.com)  
[rhirsch@ifrahlaw.com](mailto:rhirsch@ifrahlaw.com)

15 Craig S. Denney  
Nevada Bar No. 6953  
Carrie L Parker  
Nevada Bar No. 10952  
Snell & Wilmer L.L.P.  
50 West Liberty Street, Suite 510  
Reno, NV 89501  
775-785-5440 (office)  
775-785-5411 (direct)  
775-785-5441 (fax)  
[cdenney@swlaw.com](mailto:cdenney@swlaw.com)

21 *Attorneys for Defendants*

24 IT IS SO ORDERED:  


25 \_\_\_\_\_  
UNITED STATES MAGISTRATE JUDGE

26 DATED: April 8, 2015  
27 \_\_\_\_\_

28

1  
2                   **CERTIFICATE OF SERVICE**  
3

4                   I HEREBY CERTIFY that on this 7th day of April, 2015, a copy of the foregoing  
5 Unopposed Motion for Modification of Scheduling Order to be filed with the Clerk of Court  
6 using the Court's CM/ECF system, which will send notification of electronic filing (NEF) to all  
7 counsel of record.  
8

9                   \_\_\_\_\_  
10                  */s/ A. Jeff Ifrah*  
11                  A. Jeff Ifrah  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Ifrah PLLC  
1717 Pennsylvania Ave, NW Suite 650  
Washington, DC 20006  
(202) 524-4140